

HOGAN & HARTSON
L.L.P.

LINDA L. OLIVER
PARTNER
DIRECT DIAL (202) 637-6527

DOCKET FILE COPY ORIGINAL

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910

February 5, 1997

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FEDERAL COMMUNICATIONS COMMISSION
ATTENTION: SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, DC 20554

Re: Ameritech-Michigan Application for InterLATA Authority
(CC Docket 97-1)

Dear Mr. Caton:

Pursuant to the FCC's Public Notice DA97-242, released February 3, 1997, enclosed for filing in the above-referenced docket are the original and eleven copies of the "Comments of WorldCom on ALTS Motion to Strike."

Please return a date-stamped copy of the enclosed (copy provided)

Respectfully submitted,



Linda L. Oliver
Counsel for WorldCom, Inc.

Enclosures

cc: Regina Keeney, Chief, Common Carrier Bureau
Donald J. Russell, U.S. Department of Justice
Dorothy F. Wideman, Secretary, Michigan Public Service Commission
ITS, Inc.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS
COMMISSION

In the Matter of)
)
Application of Ameritech)
Michigan Pursuant to Section) CC Docket No. 97-1
271 of the Telecommunications)
Act of 1996 to Provide In-Region,)
InterLATA Services)
in Michigan)

**COMMENTS OF WORLDCOM, INC.,
ON ALTS MOTION TO STRIKE**

WorldCom, Inc., hereby files its comments in support of the February 3, 1997, request of the Association for Local Telecommunications Services (ALTS) that the FCC strike all reliance by Ameritech-Michigan on the Ameritech/AT&T agreement for purposes of the captioned Section 271 application. 1/

WorldCom urges the FCC to dismiss Ameritech's application as defective on its face, because the application relies on an unsigned, unapproved agreement. Such a dismissal should be with prejudice to Ameritech refiling its application until the 90 day statutory clock has run. 2/ In the alternative, the FCC should grant ALTS' request to strike those portions of the Ameritech application

1/ Public Notice No. DA 97-242, released February 3, 1997, seeking comment on letter to Regina Keeney, Chief, Common Carrier Bureau, from Richard J. Metzger, General Counsel, ALTS, in CC Docket No. 97-1 (hereafter "ALTS Letter").

2/ 47 U.S.C. § 271(d)(3) (1996).

that rely on Ameritech's agreement with AT&T (in whatever form or version). In doing so, the FCC should make clear that if Ameritech withdraws its application in response to such an order, it does so with prejudice to refile its application before the 90-day clock has run.

ALTS correctly points out that Ameritech should not be permitted to rely in its January 17 application on an agreement with AT&T that has since been "superseded" by an agreement filed on January 29 with the Michigan PSC. Ameritech relies heavily on that AT&T agreement to attempt to demonstrate its compliance with the 14-point competitive checklist. 3/

However, the AT&T agreement on which Ameritech-Michigan relies is incomplete in many respects. First, the agreement filed with the FCC on January 17 was not signed by either one of the parties. Second, that agreement was not expressly approved by the Michigan Public Service Commission. 4/ Third, the signed version filed with the PSC by Ameritech on January 29 is apparently

3/ ALTS Letter at 1-2.

4/ Ameritech may take the position that the Michigan PSC had already approved the agreement, two months before it was filed, in a November 26, 1996 order. See Transmittal Letter from Edward R. Becker to Dorothy F. Wideman, Executive Secretary, Michigan PSC, January 29, 1997, filed with signed AT&T/Ameritech agreement in Case Nos. U-11151 and U-11152 ("Ameritech PSC Transmittal Letter")("Ameritech Michigan understands that the enclosed Interconnection Agreement has been approved by the Commission pursuant to that Order as of November 26, 1996.") It is not reasonable, however, nor consistent with the Act's review provisions, to deem an agreement officially approved before it has even been filed. See 47 U.S.C. § 252(e)(4) (1996).

different from the unsigned version filed with the FCC on January 17. ^{5/} Fourth, even that signed January 29 version of the agreement is missing many key pricing terms.

The FCC must take this opportunity to establish a "bright line test" requiring all BOC applications (1) to be procedurally complete when filed (with, for example, signed, approved, effective agreements), and (2) to be judged on the basis of the documents filed and facts in existence on the date of filing. It is essential that a BOC application under Section 271 be complete on the date it is filed. This is necessary, first, in order to initiate the running of the 90-day statutory clock for FCC approval. Second, completeness is essential in order to permit interested parties, state commissions, and the Department of Justice a realistic opportunity to comment, and for the FCC to evaluate, an enormous and complex record in a short period of time. The BOCs cannot be permitted effectively to shorten the already tight schedule for review by filing and later supplementing incomplete applications.

The practical impact of Ameritech's filing of incomplete applications -- twice -- is substantial. Ameritech is wasting the limited resources of all of us -- regulators and interested parties alike -- by filing a "moving target" that is destined to be rejected because on its face it is incomplete. Governmental entities are subject

^{5/} Ameritech informed the Michigan PSC that the January 29 agreement "supercedes" all previously filed agreements. Ameritech PSC Transmittal Letter (January 29, 1997) at 1.

to extremely strained resources -- resources which they desperately need to devote to ongoing efforts to implement the Act. Interested parties -- many of whom are potential BOC competitors -- must divert their own limited resources from market implementation of the Act and from starting up local telephone businesses to fighting needless regulatory battles on premature requests for interLATA entry. Should the Commission fail to require the filing of complete applications, the BOCs will have every incentive to overwhelm the FCC (and the parties) with a flood of facially defective applications and amendments.

No BOC should be permitted to subvert the FCC's processes in this manner. The FCC should promptly dismiss Ameritech's application with prejudice, precluding its subsequent refiling until 90 days after February 17 filing date. 6/ If the FCC does not take this measured action, Ameritech and other BOCs will have every reason to continue to jump the gun and file applications that they will feel free to amend during the 90-day review period. The Commission must establish now a "bright line test" that will make it clear to all BOCs that their applications must be complete and ready to be judged on the merits the date of filing, and not depend on some subsequent event or effective date for completeness.

6/ Dismissal with prejudice can be reserved for egregious cases such as this one.

Conclusion

For the reasons given, the FCC should dismiss Ameritech-Michigan's Section 271 application with prejudice to its refiling before April 17, 1997 (90 days from the January 17 filing date). In the alternative the FCC should grant ALTS's request to strike that portion of Ameritech's application that relies on any version of the AT&T/Ameritech agreement. If the FCC pursues the latter course, the FCC should make clear to Ameritech that if it withdraws its application, it does so with prejudice to refiling before April 17, 1997.

Respectfully submitted,

WORLD.COM, INC.

By: 

Catherine R. Sloan
Richard S. Whitt
WorldCom, Inc.
1120 Connecticut Ave., N.W.
Washington, D.C. 20036-3902
(202) 776-1550

Linda L. Oliver
Hogan & Hartson, L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004
(202) 637-5600
Counsel for WorldCom, Inc.

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